THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITON NO.7095 OF 1997

BETWEEN:

K.Venkateswarlu son of Chenchaiah

..PETITIOENR

VS.

The Managing Director, A.P.S.Agro Industries, Hyderabad and another

..RESPONDENTS

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITON NO.7095 OF 1997

ORAL ORDER

The writ petition was filed on 04-04-1997. There is no counter filed. The learned counsel for the 1st respondent-Corporation seeks further time for counter. The said request is rejected.

The petitioner, a Security Guard with the 1st respondent-Corporation, challenges the order dated.14-11-1996 of the 1st respondent directing recovery of Rs.700/- per month in 29 monthly installments from his salary payable for the month of November-1996 onwards.

While the petitioner was serving as a Security Guard at the Ongole Office of the Corporation, a theft occurred in the Corporation godown on 14-12-1994. The 1st respondent by an order dated.31-01-1995 placed the petitioner under suspension pending enquiry. The petitioner filed W.P.No.7445 of 1995 challenging the order of suspension pending enquiry. During the pendency of the writ petition, by an order dated.24-04-1995 the petitioner was reinstated into service on the ground that the police had absolved him from involvement in the theft. Consequently, W.P.No.7445 of 1995 was dismissed as infructuous on 28-04-1995.

On 16-05-1995 the petitioner was issued a charge memo alleging dereliction of duties resulting in loss to the Corporation of stocks worth about Rs.41,511/-. The petitioner submitted his explanation on 31-05-1995. On 14-11-1996 the 1st respondent appointed one Sri S.P.V.Ranga Rao Regional Manager, Narasaraopet as an Enquiry Officer while framing charges against the petitioner. On 14-11-1996 itself the impugned order was passed directing recoveries. To the extent relevant and material, the impugned order reads as under::

> " It was reported that during the period from 13-12-94 to 15-12-94 a theft had taken place in the Ongole godown in which 101 bags of CFL 28:28:0 costing Rs.41,512/- were found missing. Sri K.Venkateswarlu, who was the Security Guard of the Ongole godown during the period and Sri P.V.Krishna Mohan, Junior Assistant, who was the in charge of the godown were charge sheeted in the references 2nd and

4th cited respectively. Both the employees have submitted their explanations which were found to be not convincing. Therefore the entire amount is ordered to be recovered from both the employees as follows:"

As is apparent from the impugned order, the 1st respondent does not analyse the explanation submitted by the petitioner on 31-05-1995 nor records any reasons why the explanation was found to be "not convincing", nor spells out the material on the basis of which the conclusion as to the petitioner's guilt is arrived at. The order impugned is a perverse order that could not have been passed by any person even normally instructed in the principles relating to disciplinary proceedings.

In the aforesaid circumstances the writ petition is allowed with costs of Rs.5000/-(Rupees five thousand only) payable by the 1st respondent to the petitioner.

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GODA RAGHURAM,J

24th JANUARY 2007

***TSNR**